

**Dawn Russell**  
Railway Safety Policy

0207 282 3946  
dawn.russell@orr.gsi.gov.uk

25 July 2013



Dear Stakeholder

## **CONSULTATION ON A DRAFT EXEMPTION TO ALLOW THE PLACING ON THE MARKET OF ASBESTOS-CONTAINING RAILWAY VEHICLES OR COMPONENTS OF RAILWAY VEHICLES**

I am writing to give you the opportunity to comment on a draft exemption to allow the placing on the market of asbestos-containing railway vehicles, and asbestos-containing components of railway vehicles. Our aim is to have the new exemption in place to come into effect when the law changes later this year. Please send your comments to me by e:mail [dawn.russell@orr.gsi.gov.uk](mailto:dawn.russell@orr.gsi.gov.uk) or by post to ORR One Kemble Street, 3<sup>rd</sup> Floor, London WC2B 4AN by **14 August 2013**. If you have any questions please contact me by e:mail or call me on 020 7282 3946.

### **Why is this necessary?**

As you may know, the Department for Environment, Food and Rural Affairs (DEFRA) has published a consultation document (CD) on proposals for draft regulations that would allow the placing on the market and use of a second-hand asbestos-containing article under certain conditions. DEFRA's CD can be found using the link at the end of this letter.<sup>1</sup>

The proposed regulations will give the Office of Rail Regulation (ORR) the power to issue exemptions, for articles within the scope of its responsibilities, and which were installed or in service before 1 January 2005. This is to deal with the unintended consequences of a directly applicable European Regulation on the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) which, in 2009, introduced a very broad restriction on the supply of asbestos-containing articles. REACH has since been amended to allow EU member states to arrange for exemptions under certain conditions to ensure a high level of protection of human health. DEFRA is proposing to take up this exemption facility by amending the REACH Enforcement Regulations 2008 to introduce ORR as an exempting authority.



INVESTOR IN PEOPLE

## **What do we need from you?**

We are seeking views on the draft exemption, which accompanies this letter. It is intended to cover railway vehicles that fall under ORR's remit i.e. rolling stock on the mainline network, underground systems, light rail and tramways, and minor and heritage railways. It would also cover components for use in those railway vehicles. The exemption is designed to allow the placing on the market (sale or lease included) of asbestos-containing railway vehicles and components, where certain conditions are met. The conditions are set out in the exemption and must be met in order for the exemption to be valid. The exemption may be withdrawn at any time in writing by ORR. Please note that the exemption relates specifically to the controls on placing articles on the market and does not alter the existing more general health and safety controls on the management of risks from asbestos (The Control of Asbestos Regulations 2012).

We invite comments on the following points in particular:

1. Does the exemption adequately cover the circumstances in which you may wish to supply asbestos-containing vehicles or components.
2. Do you foresee any difficulty in meeting the exemption conditions, which are designed to ensure a high level of protection of human health.
3. Please let us know if there are any circumstances in which you may wish to supply an asbestos-containing article, which do not appear to be covered by this exemption.

Please indicate clearly if you wish all or part of your response to remain confidential to ORR. Otherwise we may make it available on our website and we may quote from it. Where you make a response in confidence, you should attach a summary, excluding the confidential information, which can be treated as above. We may also publish the names of respondents in future documents or on our website, unless a respondent indicates that they wish their name to be withheld.

We will consider all comments and amend the draft exemption as necessary. The exemption will not come into effect until the proposed amendments to the REACH



Enforcement Regulations 2008 have come into force. The final version of the exemption will be available on our website.

Thank you for taking the time to consider this.

Yours sincerely

**Dawn Russell**

**Railway Safety Policy**

---

<sup>i</sup> [https://consult.defra.gov.uk/food/reach\\_amendment](https://consult.defra.gov.uk/food/reach_amendment).